

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 21**

**LOS ANGELES DAILY NEWS PUBLISHING COMPANY,  
A DELAWARE CORPORATION D/B/A LOS ANGELES  
DAILY NEWS; LONG BEACH PUBLISHING COMPANY,  
A DELAWARE CORPORATION D/B/A LONG BEACH  
PRESS TELEGRAM; TORRANCE HOLDINGS, LLC,  
FORMED IN DELAWARE D/B/A TORRANCE DAILY  
BREEZE; SAN GABRIEL VALLEY TRIBUNE; WHITTIER  
DAILY NEWS; PASADENA STAR-NEWS; INLAND  
VALLEY DAILY BULLETIN; REDLANDS DAILY FACTS;  
THE RIVERSIDE PRESS-ENTERPRISE; THE SUN (SAN  
BERNARDINO); THE ORANGE COUNTY REGISTER;  
AND CALIFORNIA NEWSPAPER PARTNERSHIP,  
A DELAWARE GENERAL PARTNERSHIP DOING  
BUSINESS AS SOUTHERN CALIFORNIA NEWS GROUP**

**Employer**

**and**

**Case 21-RC-273230**

**MEDIA GUILD OF THE WEST,  
TNG-CWA LOCAL 39213**

**Petitioner**

**DECISION AND DIRECTION OF ELECTION**

A petition was filed on February 24, 2021, by Media Guild of the West, TNG-CWA Local 39213 (Petitioner) seeking to represent certain employees of Los Angeles Daily News Publishing Company, a Delaware corporation d/b/a Los Angeles Daily News; Long Beach Publishing Company; a Delaware corporation d/b/a Long Beach Press Telegram; Torrance Holdings, LLC, formed in Delaware d/b/a Torrance Daily Breeze; San Gabriel Valley Tribune; Whittier Daily News; Pasadena Star-News; Inland Valley Daily Bulletin; Redlands Daily Facts; The Riverside Press-Enterprise; The Sun (San Bernardino); The Orange County Register; and California Newspapers Partnership, a Delaware General Partnership doing business as Southern California News Group (Employer). A hearing was held before a hearing officer of the National Labor Relations Board on March 16 and 17, 2021.

The Petitioner is seeking a unit of all full-time and regular part-time editorial employees of the Employer. The parties stipulated that any unit found appropriate shall include and exclude the following:

**Included:** All full-time and regular part-time reporters, photographers, and clerks working in and out of the Los Angeles Daily News; Long Beach Press Telegram; Torrance Daily Breeze; San Gabriel Valley Tribune; Whittier Daily News; Pasadena Star-News; Inland Valley Daily Bulletin; Redlands Daily Facts; The Riverside Press-Enterprise; The Sun (San Bernardino); and The Orange County Register.

**Excluded:** All other employees, executive editors, senior editors, sports editors, features editors, assignment editors, news editors, social media editors, opinion administrative editors, managing editors/design center, directors/digital subscriptions, managing editors/digital, assistants news editors, assistant sports editors, opinion editors, deputy opinion editors, deputy graphic artists, temporary employees, interns, managerial employees, guards, confidential employees, and supervisors as defined in the Act.

There are about 100 employees in the agreed-upon classifications.

The parties disagreed as to whether the artists, editorial; digital producers;<sup>1</sup> content coordinators; page designers; designers, sr.; newsletter editor/digital producers are appropriately included in the above-described unit of reporters, photographers, and clerks. There are approximately 1 artist/editorial, 9 digital producers, 15 content coordinators, 15 page designers, 3 designers, sr., and 1 newsletter editor/digital producer.

The Petitioner stated that it was willing to proceed to an election in any unit that I find appropriate, and the parties agreed that the election should be held by mail-ballot.

The Employer asserts that the unit initially proposed by the Petitioner is not appropriate in that it includes employees who do not carry out newsgathering and newswriting functions, but who work on design, distribution and/or digital optimization of publications, and do not share a community of interest with the other employees in the proposed unit. The Petitioner argues to the contrary, that the employees in the disputed classifications share a community of interest with the employees in the agreed-upon classifications.

For the reasons set forth below, I find that the petitioned-for unit, including the employees in the disputed classifications, is an appropriate unit for bargaining.

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<sup>1</sup> Social media producers are a subset of the digital producer classification, and as discussed below, there was some testimony and documentary evidence specific to social media producers. The parties agree that social media producers are covered by the digital producer classification.

## THE EMPLOYER'S OPERATION

### *Organizational Structure*

Southern California News Group (SCNG or the Employer), a division of MediaNews Group (MNG), is an umbrella organization consisting of the 11 local daily and 17 weekly newspapers in the greater Los Angeles area. SCNG is comprised of the following departments: editorial, circulation, digital subscriptions, marketing, advertising, production, and human resources. Frank Pine, the Executive Editor of SCNG and the Bay Area News Group (BANG), which is another division of MNG, runs the editorial department.

In 2018, the Employer reorganized the editorial department into three different groups: the assignment desk, the digital team, and the design center. The assignment desk is responsible for gathering news in three regions, Los Angeles County, Orange County, and the Inland Empire. Each region is led by a senior editor, Todd Harmonson, Tom Bray, and Kimberly Guimarin, respectively. The three senior editors report to Executive Editor Pine and oversee a variety of reporting teams, some of them covering specific regions or locales and some supporting all the SCNG publications.<sup>2</sup> The reporting teams generally consist of a supervisory assignment editor and a number of reporters, clerks, and photographers working for one or more publications in the region.

The digital team is led by Managing Editor of Digital Toni Sciacqua, who reports to Executive Editor Pine. Sciacqua is responsible for publication of SCNG's contents across digital platforms. She oversees teams of digital producers and social media producers.

Managing Editor of the Design Center Larry Maestas also reports to Executive Editor Pine. He is responsible for the design and layout of print newspapers, which are SCNG's 11 dailies and 17 weeklies as well as the BANG's 2 dailies and 27 weeklies.<sup>3</sup> Reporting to him are news editor James Figueroa, features supervisor Deb Bradley, and assistant sports editor Tim Button, who supervise teams of content coordinators and designers (collectively referred to as the design center employees). A graphics director, who supervises a graphic artist,<sup>4</sup> also reports to Maestas.

The Employer's offices are located throughout Southern California. The reporters and photographers spend a majority of their time in the field and have access to all the Employer's offices. One or two members of the digital team worked at about every office of the Employer, prior to the COVID-19 pandemic. A graphic artist works in the Employer's office in Anaheim,

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<sup>2</sup> The senior editor in Orange County oversees sports and features teams that serve all SCNG publications. Pine testified that reporters, in some cases, collaborate with reporters in other MNG companies on special projects.

<sup>3</sup> Some SCNG weeklies and all BANG weeklies are designed by a third-party company, Affinity Express (Affinity), which is located in the Philippines. For BANG publications, assignment desks at BANG prepare a budget, content coordinators prepare content based on that budget, and Affinity designs pages and sends them back to content coordinators for review. In addition, the record indicates that some content coordinators also work on BANG dailies as well as SCNG dailies.

<sup>4</sup> The parties refer to the disputed classification of "artists, editorial" as "graphic artists" throughout the proceeding. I will do the same.

California. On the other hand, content coordinators and page designers work at the design center in Monrovia, which is also used as the Employer's San Gabriel Valley Tribune office.<sup>5</sup> Almost all employees are currently working remotely from home due to the COVID-19 pandemic.

### **Assignment Desk: Reporters, Photographers, and Clerks**

The assignment desk consisting of the editors, reporters, photographers, and clerks is responsible for creating news stories. The newsgathering process typically begins with a reporter who has successfully pitched a story idea to editors or received an assignment. After that, the reporter does the work of getting that story,<sup>6</sup> which may include obtaining documents, sifting through documents, conducting research, and conducting interviews. The reporter, if needed, requests a photographer to accompany him or files a request for graphics to graphic designers. The reporter turns in a written story to an assignment editor responsible for the story, who edits and works with the reporter to revise the story. Once the editor approves the story, the story moves on to "digital prep," getting basic placement information to be used both by the digital team and the design center downstream. For example, if a reporter tags a story for "news," the story will move into the news section of the website once the assignment desk releases it for publication. Similarly, the tagging determines where the story, once exported out of WordPress,<sup>7</sup> will go to in Saxotech, a separate database that is used by content coordinators and designers to stage content. During this process, reporters also work with editors to create a budget, i.e., a technical specification that includes a short summary of the proposed stories, an estimated length for each story, a projected timeline for the completion of each story, and the name of the publications and the page number(s) where the stories should appear.

The Employer's job description notes that the reporters develop and maintain sources, gather news and information for publication in all SCNG platforms (websites, social media streams, mobile alerts, daily print publications, and special report), plan their news coverage in consultation with editors, write stories, and work closely with assignment editors and digital staff to ensure the SCNG online reporting is cutting edge. Notably, several areas of the job description stress the reporters' functions in digital platforms. For example, the reporters must make best use of digital platforms to report news quickly as they develop more comprehensive stories for digital write-throughs and print editions, and they must be expert in the use of social media to develop sources and/or information for stories as well as to promote their work and expand audience reach. A job ad for a Los Angeles Daily News reporter requires a bachelor's degree or equivalent in journalism, or in a related field; strong news judgment; excellent writing and reporting skills, including knowledge of AP style; and a strong understanding of social media.

Per the job description, the essential functions of the photographers include making story-telling photos for all sections of the newspaper and website, gathering information for AP-style

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<sup>5</sup> The design center/San Gabriel Valley Tribune office has a large room with 4 desks for reporters, 50 desks for design center employees, and 15 desks for advertising employees. While the record suggests that photographers, too, have desks at the design center, it is silent on the number of such photographers.

<sup>6</sup> According to Pine, a "story" means a unit of content that also includes photos and videos.

<sup>7</sup> In writing stories, reporters use WordPress, a web-content management system.

photo captions, communicating effectively with reporters and editors, and working with the design hub on page design. The photographers must have a bachelor's degree in journalism, photography, communication, or equivalent experience, prior experience as a photographer, experience with digital content and all social media platforms, and experience with Adobe Suite including Photoshop and InDesign.

The clerks answer phones, check messages, compile events and entertainment calendars, and write community briefs and simple stories. A job ad for clerks requires one year of office experience, strong computer skills and familiarity with Microsoft Office Suite, and a high school diploma or GED equivalent.

### **Digital Team: Digital Producers**

After the SCNG assignment desk releases stories for publication, the digital producers optimize them for digital platforms. For optimization, the digital producers may rewrite the headline of the story, refit the story to the specification of a webpage, add additional links or elements to the story to increase recirculation by audience inside the websites, or put the story either to a different place on the same website or on other sites. They may correct some minor errors like typographical errors and grammar in the story. The digital producers then choose or curate the article onto social media, email alerts, or push alerts for mobile phones. For example, the digital producers pick at least three stories from every website and create codes for voice-activated home electronic devices to allow people to ask for news stories to be read to them. They also pick 10 stories from every site each night for the newsletter and do an alert for breaking news. In so doing, the digital producers work with stories prepared not only by the SCNG assignment desk but also by Associated Press and other MNG publications.

The digital producers also track analytics throughout the day.<sup>8</sup> If the story is not doing well either on the home page or on the social media channel, they may change the headline of, or a photo in, the story, or take the story out of the home page. If the digital producers see that a story is getting a lot of traffic from search engines, they may change something such as additional links in the story to serve that audience. If the digital producers identify a trending story about which SCNG reporters have not written, they alert Managing Editor Sciacqua, who then advises the senior editors to assign the story to reporters and photographers.

Likewise, the social media producers monitor a feed of all the stories as they are published in the platform called SocialFlow and decide which stories to send out on which channel. They rewrite headlines for the social media audience, write little blurbs for social media, select and edit photos, and add links to other related stories.

The record indicates that digital producers occasionally write original stories with their bylines. For example, one digital producer named Steve (last name unknown) typically writes three stories a week for the website and for the newspaper. A digital producer named John (last name unknown) writes a column about food and beer for one of the SCNG's daily papers. Social media producer Kristine Malicse sometimes does a social media reaction story, putting together

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<sup>8</sup> The analytics show, for instance, the number of people on websites, what stories are being read, and most popular search terms on social media/Google.

all the tweets. Malicse also did live reporting covering a music festival and convention a few times in the last two years.

According to a job ad for digital producers, they must have strong news judgment;<sup>9</sup> basic journalistic reporting, writing, and editing skills; strong understanding of search engine optimization and social media; basic knowledge of analytics; and understanding of fair use, copyright laws, and media ethics. The social media producers are required to have broad knowledge of social media platforms, digital photo editing skills, and copy editing and writing skills.

There is a limited information about the newsletter editor/digital producer.<sup>10</sup> She is part of a digital subscription team, a cross-functional team consisting of employees from different departments. The newsletter editor is in the circulation department and is cross-trained to help out the social media team by managing social-media comments. Although her desk is at the design center in Monrovia, she does not report to Managing Editor Sciacqua.

### **Design Center: Content Coordinators and Page Designers**

The Employer's content coordinators and page designers<sup>11</sup> prepare for publication for printed papers based on a story budget that the assignment desk provides. To that end, content coordinators and page designers collaborate daily. Depending on the placement of a story in the paper, either a content coordinator or a page designer picks up the story from Saxotech. For a story designated for a front page, a page designer puts the specification (e.g., the font size and length) for the headline. A content coordinator then prepares content for print design by attaching photos to an appropriate story, writing headlines, captions and teasers,<sup>12</sup> creating a "pull quote" that highlights certain story passages, ensuring photos are paired with the correct story, trimming the story to fit the allotted space, and proofing the story. For a story set for an inside page, a page designer might pick up the story, proofread it, and let the content coordinator know that the story is ready for his or her review.

During that process, a content coordinator and a page designer also line-edits the story, fixing grammar and punctuation and making minor changes. If either of them discovers a problem with a story, he or she typically reports it to a shift supervisor at the design center. That shift supervisor contacts an editor who is responsible for the story on the assignment desk and asks for a fix. The editor would, if needed, talk to the reporter. Because a story often appears in more than one publication, it gets designed for multiple editions.

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<sup>9</sup> The digital producer exercises news judgment by determining what stories go on the home page and on what sites the stories belong.

<sup>10</sup> At the hearing, the Employer stated that it has no objection to classifying this position as a digital producer for the purpose of this hearing.

<sup>11</sup> Other than the fact that senior designers might work on the same daily papers and are paid more than page designers, the record indicates no other differences between senior designers and page designers. As such, all references to the page designers in this decision are meant for both the senior designers and the page designers.

<sup>12</sup> A teaser appears on the front page and refers to a story inside the paper.

As stated in the job description for the content coordinator, the content coordinator's primary responsibility is to gather materials—stories, art, and associated elements—from SCNG and BANG assignment editors and prepare content packages for designers. Other duties include participating in news-planning meetings, reviewing and sometimes preparing planning budgets for print publications, gathering and sometimes creating content for publication, reviewing and editing content, and assisting in the management of the page flow on deadline, as well as proofing, checking, and clearing pages for print sites. The content coordinators are required to have prior news media experience, strong knowledge of the use of grammar, spelling, headlines, and photographs, understanding of AP and local style, news judgment and awareness of the community. It is preferred that content coordinators have a college degree and experience on both assignment desks and production desks.

The page designers are required to have a bachelor's degree or 2 to 3 years of experience, thorough knowledge of design principles and experience with news, a strong headline writer for both print and social media, the ability to work independently and proactively with other editors and reporters, excellent news judgment,<sup>13</sup> and the knowledge of InDesign.

The graphic artists develop graphics, maps, freestanding full-page infographics, and infographics tied to a story.<sup>14</sup> For example, they work on the daily COVID-19 tracker showing all kinds of case rates and data points. According to Executive Editor Pine, the graphic artists have more direct contact with the assignment desk in terms of developing their pages.

## ANALYSIS

In determining an appropriate unit, the Board will first consider the petitioned-for unit, and if that unit is appropriate the inquiry will generally end there. It is well settled that the unit sought need not be the most appropriate unit, but merely an appropriate unit. *Overnite Transportation Co.*, 322 NLRB 723, 723 (1996). However, if the petitioned-for unit is not appropriate, the Board may examine the alternative units proposed by the parties, and also has the discretion to select an appropriate unit that differs from those alternatives. *Overnite Transportation Co.*, 331 NLRB 662, 663 (2000).

The Board recently reaffirmed the traditional community-of-interest test for determining the appropriateness of a bargaining unit, reiterating that its standards were not met where the “interests shared by the petitioned-for employees are too disparate to form a community of interest within the petitioned-for unit,” and that “[a] unit without that internal, shared community of interest is inappropriate.” *The Boeing Co.*, 368 NLRB No. 67, slip op. at 3 (2019). The fact that two or more groups of petitioned-for employees engage in different processes does not by itself render a combined unit inappropriate if there is a sufficient community of interest among all these employees. *Berea Publishing Co.*, 140 NLRB 516, 518 (1963).

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<sup>13</sup> A page designer exercises news judgment to determine the appropriate presentment of the stories by selecting the font size and the length of the headlines for each story, selecting the right photo to be the lead photo and the secondary one, and deciding whether the story needs a pull quote.

<sup>14</sup> There are two graphic artists, and one of them reports to another, who then reports to Managing Editor Maestas.

When analyzing whether a community of interest exists among a group of employees, the Board considers whether the employees are organized into a separate department; have distinct skills and training; have distinct job functions and perform distinct work, including inquiry into the amount and type of job overlap between classifications; are functionally integrated with the Employer's other employees; have frequent contact with other employees; interchange with other employees; have distinct terms and conditions of employment; and are separately supervised. *PCC Structural, Inc.*, 365 NLRB No. 160, slip op. at 5 (2017) (quoting *United Operations, Inc.*, 338 NLRB 123, 123 (2002)). The Board has long held that these factors must be weighed in their totality, and that no single factor has controlling weight. See *Airco, Inc.*, 273 NLRB 348, 348 (1984).

### ***Boeing Step 1***

Under *Boeing* step one, I find that the evidence is sufficient to establish that the employees in the petitioned-for unit share an internal community of interest to make the unit an appropriate one within the meaning of the Act.

### ***Corporate Organization***

It is undisputed that all the petitioned-for employees, except for the newsletter editor/digital producer, are grouped within the editorial department. See *Salt Lake Tribune Publishing Co.*, 92 NLRB 1411, 1412 (1951) ("Both before and since the 1947 amendments to the Act, the Board has recognized that a single major department of a newspaper may constitute an appropriate unit."). The Employer also agrees to treat the newsletter editor/digital producer as the digital producer in this proceeding.

Thus, I find that this factor weighs in favor of finding a shared community of interest.

### ***Skills and Training***

The record shows that the petitioned-for employees have different core skills and have received different on-the-job training depending on whether their principal job functions related to writing, photography, digital, or design. Similarly, they use different tools specific to their job. The reporters use WordPress; the photographers use photographic equipment, Photoshop, and InDesign; the digital producers use WordPress,<sup>15</sup> SocialFlow, CrowdTangle, Listrak, Push.ly, and Parse.ly; the design center employees use InDesign, InCopy, Photoshop, and Illustrator.

Because the differences in skills and training exist as equally among employees in the agreed-upon classifications as they do with employees in one of the disputed classifications and another, I believe such differences do not render the petitioned-for unit here internally inappropriate. Also, there is some broad similarity in the employee skills and training. Consistent with the Employer's core initiative to transform its business for the digital era, all the petitioned-for employees are expected to have strong understanding of social media or

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<sup>15</sup> The digital producers have a different level of access to the WordPress dashboard than the reporters and photographers in that they can choose a story, attach a related story, and change out a photo.



experience with digital content and social media platforms. Digital producer Jerry Berrios testified that the Employer's search engine optimization training sessions are open to all, including reporters and photographers. Additionally, many of the petitioned-for employees share good writing skills, including an understanding of AP style. And the Employer requires or prefers the reporters, photographers, content coordinators, and page designers to have a college degree.

Overall, I find that this factor weighs slightly in favor of finding that the petitioned-for employees share a community of interest.

*Distinct Functions and Job Responsibilities*

As the Employer notes, there is little overlap in primary job functions between one classification and another. For instance, the photographers are responsible for making story-telling photos and the reporters for writing daily and enterprise/investigative stories. However, the parties do not contend that the different functions served by the reporters and the photographers should separate the classifications into more than one unit. Thus, the fact that the disputed classifications—the digital producers, content coordinators, page designers, and graphic artists—serve functions different from those of the agreed-upon classifications is not sufficient to disapprove any shared community of interest.

In an effort to distinguish the functions served by the agreed-upon classifications and the disputed classifications, the Employer argues that the reporters, photographers, and clerks primarily carry out newsgathering and newswriting functions, but the employees in the disputed classifications work on design, distribution, and digital optimization of publications. I find this argument unpersuasive particularly with regard to the graphic artists. Just as the photographers accompany reporters and produce photos complementing the reporters' written work, the graphic artists work on graphics requests filed by reporters and prepare charts, maps, or infographics that help illustrate their written work. Like the reporters, the graphic artists also work closely with the assignment desk to develop news such as a daily COVID-19 tracker.<sup>16</sup>

Further, the Employer appears to premise its argument on the assumption that photos—that the photographers (one of the agreed-upon classifications) create—are indispensable parts of a story while other elements of the story—that the employees in the disputed classifications create—are not.<sup>17</sup> The Employer, however, offers nothing to support its assumption. To the contrary, the Employer, in its job ad for page designers, acknowledges that good design is content in and of itself, suggesting that even the arrangement of stories on the page—which page designers engage in—is an important element of a story. In this regard, the petitioned-for employees all share job functions of creating content for the Employer's 11 daily newspapers.

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<sup>16</sup> Additionally, I observe that at least some digital producers engage in newsgathering and newswriting functions. Cf. *Brand Precision Services*, 313 NLRB 657, 658 (1994) (finding job functions not sufficiently distinct, in part, where excluded employees perform 10% of the same work as the petitioned-for employees).

<sup>17</sup> As noted above, content coordinators produce various elements of the stories, such as headlines, captions for photos, teasers, and pull quotes, and digital producers craft headlines and captions for photos.

Therefore, I find that this factor does not weigh in favor of finding that the petitioned-for employees share a community of interest, but it does not necessarily cut against it.

*Employee Interchange*

To begin, there is no evidence of temporary interchange between the agreed-upon classifications and the disputed classifications. Regarding permanent interchange, the record establishes that a number of content coordinators have moved from, and moved into, reporters positions in the past. Specifically, content coordinator Mark Fabian testified that “the vast majority of” content coordinators have been reporters and that some became reporters or digital producers. Managing Editor Maestas also testified that a couple of sports reporters became content coordinators. The record also establishes that some reporters transferred into digital producers positions. Executive Editor Pine testified that a “couple” of digital producers have reporter experience in their backgrounds, and at least one of them was a reporter for the Employer.

Therefore, I find that this factor weighs slightly in favor of finding a shared community of interest.

*Contact Among Employees*

First, the record shows regular contact between the reporters and the content coordinators. Reporter Jonah Valdez testified that he sometimes talked to a content coordinator about a typo or reporting inconsistency between his story and another story of his coworkers through the Slack channel<sup>18</sup> or in person. Content coordinator Fabian likewise testified about his interactions with reporters with regard to some line editing or spellings. Although Executive Editor Pine attempted to discount such interactions as a rarity where a responsible editor could not be reached in time, the record is not so limited. In fact, the Employer’s job description for content coordinators states that their duties will “often” involve communicating with assignment editors and/or reporters and they must negotiate changes in content with assignment editors and reporters.<sup>19</sup>

Similarly, the digital producers have regular contact with the reporters. For the common goal of increasing visits to the SCNG websites, digital producers ask reporters to retweet stories and vice versa. Reporter Valdez said that he consulted with the social media producer to decide which stories to share and amplify on social media. The digital producers and the social media producers also communicate about the headlines as well as local-events coverage with the

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<sup>18</sup> Slack is an application for chat. It is undisputed that all petitioned-for employees have access to a Slack channel for all employees in the editorial department. The Employer, however, takes an issue with Valdez’ testimony that he interacted directly with content coordinators via the Slack channel for crime and public-safety issues, relying on Fabian’s testimony that that he assumed content coordinators would not have access to that channel. I note that Fabian admitted that he had no personal knowledge as to who was on the channel for crime and public safety. In any event, it is not material to determine which Slack channel Valdez used to communicate with content coordinators.

<sup>19</sup> Because the *Boeing* step one just considers the internal community of interest among the petitioned-for employees, there is no need to address the Employer’s argument that the employees in the disputed classification have more contact with other employees outside the petitioned-for unit.

reporters. In addition, digital producer Berrios said that when he sees minor errors (like typos and grammar issues) in the stories, he usually sends a message to a reporter and an editor through Slack.

Graphic artists, too, have regular contact with reporters. As the record shows, all reporters are trained on how to file a request for graphics, and once a reporter files a graphics request, the reporter and the graphic artist discuss what graphics would best accompany the reporter's written work.

On the other hand, there is little evidence of contact between the reporters and the page designers. Reporter Joshua Chin said that he does not talk to the page designers, and page designer Darius Johari testified that clarifications usually come through the content coordinators. Although some reporters share a breakroom with the page designers at the design center, only a small number of them work at the design center. The page designers, however, interact with the content coordinators daily.

I find that this factor weighs in favor of finding a shared community of interest.

#### *Functional Integration*

Here, all the petitioned-for employees work together to develop and publish news content in print and on digital platforms. For example, the content coordinators turn only the "barebones" information that the photographers have provided for photos, such as who is in the photo and when it was taken, into a readable sentence. They also craft or revise suggested headlines that the reporters prepared. The content coordinators and page designers will cut portions of the stories as necessary and edit the stories for errors and grammar. The digital producers, too, rewrite the headline of the story and choose the photo appropriate for digital platforms. Further, all editorial employees share "collective responsibility," in Executive Editor Pine's words, "to ensure that the stories are free of errors."

In this regard, *United Operations, Inc.*, 338 NLRB 123 (2002), cited by the Employer, is distinguishable. In that case, the HVAC techs and the other field service employees work on separate service calls. In contrast, the petitioned-for employees here work on different phases of the same product (i.e., a story).

Thus, I find that the factor of functional integration strongly supports finding that the petitioned-for employees share a community of interest.

#### *Terms and Conditions of Employment*

As the Employer points out, there seems to be no commonalities among the petitioned-for employees in terms of their wages. They are paid a mix of salaries and hourly wages, and the wages vary greatly even among the employees in the same classification.<sup>20</sup>

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<sup>20</sup> The reporters are paid either hourly or by salary, with an annualized pay of \$35,000 to \$80,000. The photographers are generally paid hourly and have similar pay ranges as the reporters. The clerks make around \$14-\$15 hourly. The digital producers are paid either hourly anywhere from \$20 per hour up to \$33 per hour or by salary. The newsletter editor/digital producer earns around \$45,000 to \$50,000 per year. The content coordinators

As for the work schedules, the reporters and the photographers work mostly in the field, and their work hours vary depending on the stories being worked on during a particular week. The disputed classifications, on the other hand, generally work regular set hours. For example, the content coordinators work in the evenings, typically from 2 p.m. or 2:30 p.m. to 11 p.m. The digital producers have set schedules, starting from 5 a.m. to midnight. But since nothing in the record indicates that the clerks—one of the agreed-upon classifications—mostly work in the field, they are more likely to have set schedules like the employees in the disputed classifications.

Further, it is undisputed that all the petitioned-for employees are subject to the same employee handbook and receive the same fringe benefits. Moreover, virtually all of them are expected to abide by the Employer's Ethics & Professional Standards Guidelines. The record establishes that the guideline applies to all employees within the editorial department. As noted above, all petitioned-for employees, but for a newsletter editor, belong to the editorial department.

Overall, there are more similarities in terms and conditions of employment than differences. Therefore, I find that this factor weighs in favor of finding that a shared community of interest exists.

#### *Supervision*

The record establishes that the reporters and photographers do not share immediate and secondary supervision with the employees in the disputed classifications.<sup>21</sup> But it is equally true that all of the employees in the petitioned-for unit are under the oversight of Executive Editor Pine. Cf. *Boston After Dark*, 210 NLRB 38, 39 (1974) (finding shared community of interest because, although the disputed employees have separate immediate supervisors, they share the overall supervision with other employees). The record also contains two instances in which Sports Editor Tom Moore (at the assignment desk) interviewed applicants for a position at the design center.

As such, I find that this factor does not weigh in favor of finding that the petitioned-for employees share a community of interest, but it does not necessarily cut against it.

#### *Bargaining History*

I find that this factor is neutral because there is no history of collective bargaining for the petitioned-for employees. See *Big Y Foods, Inc.*, 238 NLRB 855, 857 (1978) (“[T]he concept of ‘bargaining history,’ when discussed in the context of determining the appropriateness of a

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and page designers are mostly paid hourly, with the hourly wages ranging from \$20 to \$30. A graphic artist is also paid about \$28 per hour. Only hourly employees receive overtime pay.

<sup>21</sup> Cf. *Bergdorf Goodman*, 361 NLRB 50 (2014) (noting that shared common supervision across the employer's departments could be a factor supporting shared community of interest); *Executive Resources Associates*, 301 NLRB 400 (1991) (noting that shared common supervision among employees covered by different contracts could be a factor supporting shared community of interest).

bargaining unit, refers to the past bargaining relationship between the employer and the employees described in the immediate petition”).

Based on the foregoing, I find the factors of corporate organization, skills and training, common terms and conditions of employment, interchange, contact, and functional integration support finding a shared community of interest among the petitioned-for employees and the factors of job functions, supervision, and bargaining history are neutral.<sup>22</sup> Accordingly, the evidence supports finding that the petitioned-for employees share an internal community of interest, thereby satisfying step one of *Boeing*.<sup>23</sup>

### ***Boeing* Step 3**

I further found that step three of *Boeing* analysis does not dictate a different outcome. Step three of *Boeing* analysis considers any applicable guidelines that the Board has established for specific industries with regard to appropriate unit configurations. *Boeing*, supra, 368 NLRB No. 67, slip op. at 4. Although *Boeing* only cited special guidelines for public utilities, defense contractors, and retail establishment, the Board has long held that, in the newspaper industry, the optimum unit is one comprising all nonmechanical employees. See *Garden Island Publishing Co.*, 154 NLRB 697, 698 (1965); *Salt Lake Tribune Publishing Co.*, supra at 1412–1413. However, where the employer is organized on distinct departmental lines, the Board has also found appropriate separate departmental units of nonmechanical employees. See *Patriot-News Company*, 308 NLRB 1296, 1297 (1992), enf. 5 F.3d 1490 (3d Cir. 1993); *Peoria Journal Star, Inc.*, 117 NLRB 708, 709 (1957); *Salt Lake Tribune Publishing Co.*, supra at 1412.

The Employer challenges the Board precedents endorsing all-editorial units, claiming that they predate the digital revolution, which led to significant changes in duties. However, the

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<sup>22</sup> Cases that the Employer cites do not compel a different outcome. See *Bradley Steel, Inc.*, 342 NLRB 215 (2004); *Harron Communications*, 308 NLRB 62 (1992); *Omni International Hotel*, 283 NLRB 475 (1987); *Michigan Wisconsin Pipe Line Co.*, 164 NLRB 359 (1967). In each of these cases, the Board addressed the question whether the petitioned-for unit is not appropriate for bargaining without additional employees excluded from that unit. These cases, thus, do not directly speak to the question at issue, i.e., whether the petitioned-for unit is an appropriate unit for bargaining. In any event, they have a mix of facts different from the ones in the present case.

<sup>23</sup> I reject the Employer’s argument that the design center employees’ assistance with non-SCNG publications demonstrates divergent interests. The record shows that *some* of the content coordinators review the design work done by Affinity for BANG, the Employer’s sister company. And the Employer does not dispute that those content coordinators also perform the work for SCNG publications along with other petitioned-for employees. Given the above community-of-interest factors supporting the petitioned-for unit, I find that the potential ability of BANG to affect some content coordinators’ terms and conditions of employment fails to establish that the petitioned-for unit is inappropriate for bargaining. Cf. *Miller & Anderson, Inc.*, 364 NLRB No. 39 (2016) (finding employees who all work for one user employer and otherwise share a community-of-interest constitute an appropriate unit for collective bargaining even though a petitioned-for unit includes employees who are both singly-employed by a user employer and employees who are jointly employed by the user employer and the supplier employer).

I also find no merit in the Employer’s contention that the disputed classifications must be excluded under step two of *Boeing*. Step two of the *Boeing* analysis addresses whether the petitioned-for employees are sufficiently distinct from excluded employees. *Boeing*, supra, 368 NLRB No. 67, slip op. at 4. The Board recently confirmed that step two of the *Boeing* analysis is unnecessary where, like here, no party asserts that the smallest appropriate unit must include employees excluded from the petitioned-for unit. See *Macy’s West Stores, Inc.*, 32–RC–246415, 2020 WL 2768915, rev. denied (May 27, 2020).

Employer cited no current authority to show that the view in the petition is outdated and at odds with current Board law in this industry. Also, I am bound to the precedents until the Board overrules them.

The Employer next argues that the above guideline does not establish that the bargaining unit *must* include the employees in the disputed classifications. I agree. See *Minneapolis Star & Tribune Co.*, 222 NLRB 342, 343 (1976) (stating that although it is well-settled that a departmentwide unit of nonmechanical employees in the newspaper industry is appropriate, the unit composition in each case must be reviewed in light of the particular facts peculiar to that unit). But the above guidance is consistent with the determination that the petitioned-for unit of all employees in the editorial department is an appropriate unit for bargaining.

Further, contrary to the Employer's assertion, the history of collective bargaining at other MNG publications and non-MNG publications<sup>24</sup> does not control the unit determination in this case. Nothing in the record indicates that such collective-bargaining history was the result of an election conducted pursuant to a unit determined by the Board. See *Laboratory Corp. of America Holdings*, 341 NLRB 1079, 1083 (2004) ("It has long been the Board's policy not to consider itself bound by a bargaining history (or lack of bargaining history) resulting from a consent election in a unit stipulated by the parties rather than one determined by the Board."). Besides, the unit sought need not be the most appropriate unit, but merely an appropriate unit, and thus there is nothing improper to have a unit of reporters and photographers in one company and another unit of all editorial employees including digital producers and design center employees in another company. Cf. *Overnite Transportation Co.*, supra 322 NLRB at 724 ("The Board does not require a union to seek the same unit at different locations of the same employer, even where there is a collective-bargaining history in a broader unit at the other locations.").<sup>25</sup>

In summary, considering steps one and three of *Boeing*, I find that the evidence establishes that the petitioned-for unit share a community of interest sufficient to establish that it is an appropriate unit for the purposes of collective bargaining within the meaning of Section

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<sup>24</sup> At the hearing, the Employer made an offer of proof concerning other MNG publications, including the Denver Post, the St. Paul Pioneer Press, the Boston Herald, the Macomb Daily, Detroit News, and non-MNG publications, asserting that in each organization, the bargaining units consist solely of the reporters and photographers. The Employer also cites to the Board proceedings, in each of which an election among reporters and photographers was conducted pursuant to a stipulated election agreement. See *California Newspapers Partnership, a Delaware general partnership, d/b/a The San Bernardino County Sun*, Case 31-RC-008873; *Long Beach Publishing Company d/b/a Long Beach Press-Telegram*, Case 21-RD-174797.

<sup>25</sup> Somewhat relatedly, the Petitioner attached to its posthearing brief three stipulated election agreements and one certification of representative. The Employer filed a motion to strike the four documents, and the Petitioner filed its opposition and motion to take judicial notice of the documents showing the stipulated or certified units, which include not only reporters and photographers, but other news department employees. The Employer filed a reply, asserting that the four documents are non-public and carry no precedential weight. I find unnecessary to pass on the parties' motions. Even assuming that judicial notice is appropriate, the documents have no relevance to the unit determination in this case, see *Laboratory Corp. of America Holdings*, supra, and, thus, taking notice of them would not affect the results in this case.

9(b) of the Act. Accordingly, I shall order that an election be held by mail ballot in the petitioned-for unit described below. That unit contains approximately 144 employees.<sup>26</sup>

### CONCLUSIONS

I have carefully considered the record evidence and the arguments of the parties, as well as current Board law, and I conclude based on the reasons set forth above that the employees in the petitioned-for unit is an appropriate unit for bargaining and shall order that an election be held in that unit. Accordingly, I find as follows:

1. The parties stipulated, and I so find, that the Employer is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act, and is subject to the jurisdiction of the Board.<sup>27</sup>
2. The parties stipulated, and I so find, that the Petitioner is a labor organization within the meaning of Section 2(5) of the Act.
3. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
4. The following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

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<sup>26</sup> As noted above, the parties are in agreement as to the inclusion of all reporters and photographers who are based at facilities across Southern California. And the record establishes that some reporters are based at the Employer's office in Monrovia, which is also referred to as the design center. The Employer nevertheless argues that the addition of the employees working at the design center creates an inappropriate multifacility unit. This is simply a red herring as the Employer has already acknowledged that the inclusion of the design center into the unit is appropriate.

<sup>27</sup> The parties stipulated to the following commerce facts:

The Employer, which does business as Southern California News Group, is comprised of the following publishing entities: Los Angeles Daily News Publishing Company, a Delaware corporation d/b/a Los Angeles Daily News; Long Beach Publishing Company, a Delaware corporation d/b/a Long Beach Press Telegram; Torrance Holdings, LLC, formed in Delaware d/b/a Torrance Daily Breeze; San Gabriel Valley Tribune; Whittier Daily News; Pasadena Star-News; Inland Valley Daily Bulletin; Redlands Daily Facts; The Riverside Press-Enterprise; The Sun (San Bernardino); The Orange County Register; and California Newspapers Partnership, a Delaware General Partnership doing business as Southern California News Group; with a principal office and place of business located at 1171 South Lewis Street, Anaheim, CA 91016, is engaged in the business of publishing newspapers. During the past 12 months, a representative period, the Employer, in conducting its business operations described above, derived gross revenues in excess of \$200,000, held membership in or subscribed to interstate news services, published national syndicated features, advertised nationally sold products, and purchased and received at its Anaheim, California facility goods valued in excess of \$50,000 directly from points outside the State of California.

**Included:** All full-time and regular part-time reporters, photographers, clerks, editorial artists, digital producers, content coordinators, page designers, senior designers, and newsletter editor/digital producers employed by the Employer.

**Excluded:** All other employees, executive editors, senior editors, sports editors, features editors, assignment editors, news editors, social media editors, opinion administrative editors, managing editors/design center, directors/digital subscriptions, managing editors/digital, assistants news editors, assistant sports editors, opinion editors, deputy opinion editors, deputy graphic artists, temporary employees, interns, managerial employees, guards, confidential employees, and supervisors as defined in the Act.

5. The parties stipulated, and I so find, that there is no collective-bargaining agreement covering any of the employees in the unit sought in the petition herein, and there is no contract or other bar in existence to an election in this case.

### **DIRECTION OF ELECTION**

The National Labor Relations Board will conduct a secret-ballot election among the employees in the unit found appropriate above. Employees will vote whether or not they wish to be represented for purposes of collective bargaining by **MEDIA GUILD OF THE WEST, TNG-CWA LOCAL 39213**.

#### **A. Election Details**

The election will be conducted by mail. The ballots will be mailed to employees employed in the appropriate collective-bargaining unit at **2:30 p.m. on Friday, May 21, 2021**. Ballots will be mailed to voters by the National Labor Relations Board, Region 21. Voters must sign the outside of the envelope in which the ballot is returned. Any ballot received in an envelope that is not signed will be automatically void.

Those employees who believe that they are eligible to vote and did not receive a ballot in the mail by **Friday, May 28, 2021**, as well as those employees who require a duplicate ballot, should communicate immediately with the National Labor Relations Board by calling the Region 21 office at (213) 894-5254.

The ballots will be commingled and counted by the Region 21 Office at **10:00 a.m. on Friday, June 11, 2021**. In order to be valid and counted, the returned ballots must be received by the Region 21 Office prior to the counting of the ballots.

The parties will be permitted to participate in the ballot count, which may be held by videoconference. If the ballot count is held by videoconference, a meeting invitation for the videoconference will be sent to the parties' representatives prior to the count. No party may make a video or audio recording or save any image of the ballot count.



## **B. Voting Eligibility**

Eligible to vote are those employees in the unit who were employed during the **payroll period ending Sunday, May 2, 2021**, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off.

Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced, are also eligible to vote. In addition, in an economic strike that commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military services of the United States may vote by mail as described above.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

## **C. Voter List**

As required by Section 102.67(l) of the Board's Rules and Regulations, the Employer must provide the Regional Director and parties named in this decision a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters.

To be timely filed and served, the list must be *received* by the Regional Director and the parties by **Monday, May 17, 2021**. The list must be accompanied by a certificate of service showing service on all parties. The Region does not serve the voter list.

Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015](http://www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015).

The list must be filed electronically with the Region and served electronically on the other parties named in this decision. The list must be electronically filed with the Region by using the E-filing system on the Agency's website at [www.nlr.gov](http://www.nlr.gov). Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions.

Failure to comply with the above requirements will be grounds for setting aside the election whenever proper and timely objections are filed. However, the Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

No party shall use the voter list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

#### **D. Posting of Notices of Election**

Pursuant to Section 102.67(k) of the Board's Rules, the Employer must post copies of the Notice of Election in conspicuous places, including all places where notices to employees in the unit found appropriate are customarily posted. The Notice must be posted so all pages of the Notice are simultaneously visible. In addition, if the Employer customarily communicates electronically with some or all of the employees in the unit found appropriate, the Employer must also distribute the Notice of Election electronically to those employees. **The Employer must post copies of the Notice at least 3 full working days prior to 12:01 a.m. of the day of the election and copies must remain posted until the end of the election.** For purposes of posting, working day means an entire 24-hour period excluding Saturdays, Sundays, and holidays. However, a party shall be estopped from objecting to the nonposting of notices if it is responsible for the nonposting, and likewise shall be estopped from objecting to the nondistribution of notices if it is responsible for the nondistribution. Failure to follow the posting requirements set forth above will be grounds for setting aside the election if proper and timely objections are filed.

#### **RIGHT TO REQUEST REVIEW**

Pursuant to Section 102.67 of the Board's Rules and Regulations, a request for review may be filed with the Board at any time following the issuance of this Decision until 10 business days after a final disposition of the proceeding by the Regional Director. Accordingly, a party is not precluded from filing a request for review of this decision after the elections on the grounds that it did not file a request for review of this Decision prior to the election.

The request for review must conform to the requirements of Section 102.67 of the Board's Rules and Regulations. Unless the party filing the request for review does not have access to the means for filing electronically or filing electronically would impose an undue burden, a request for review must be E-Filed through the Agency's website. A request for review may not be filed by facsimile. To E-File the request for review, go to [www.nlr.gov](http://www.nlr.gov), select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001, and must be accompanied by a statement explaining why the filing party does not have access to the means for filing electronically or why filing electronically would impose an undue burden. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review.

Neither the filing of a request for review nor the Board's granting a request for review will stay the election in this matter unless specifically ordered by the Board. If a request for review of a pre-election decision and direction of election is filed within 10 business days after issuance of the decision and if the Board has not already ruled on the request and therefore the issue under review remains unresolved, all ballots will be impounded. Nonetheless, parties retain the right to file a request for review at any subsequent time until 10 business days following final disposition of the proceeding, but without automatic impoundment of ballots.

Dated: May 13, 2021



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William B. Cowen, Regional Director  
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